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Security Council

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Letter dated 18 July 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 10 April 2002 (S/2002/387).

The Counter-Terrorism Committee has received the attached supplementary report from Norway, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 8 July 2002 from the Permanent Representative of Norway to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

On instructions from my Government, I hereby have the honour of enclosing a second report from Norway to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001), with reference to your letter of 27 March 2002.

My Government stands ready to provide the Committee with further reports or information, if requested to do so by the Committee.

I should be grateful if you would have the text of this letter and its enclosure circulated as a document of the Security Council.

(*Signed*) Ole Peter **Kolby**
Ambassador
Permanent Representative

Enclosure

Second report to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001) of 28 September 2001*

NORWAY

Introduction

On 5 October 2001, Norway adopted a Provisional Ordinance with the necessary provisions for implementing Security Council resolution 1373. As of the date of adoption, Norwegian domestic law satisfied the requirements of resolution 1373. At the same time, Norway implemented the provisions of the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999, which it signed on 1 October 2001. Norway will ratify the Convention in the near future and thereby join the group of states that have ratified all of the 12 international Conventions and Protocols relating to terrorism.

This second report to the CTC consists of two parts: Part A presents the new legislative measures taken by Norway to combat acts of terrorism and the financing of terrorism since the first report was submitted on 30 November 2001. Part B provides information on the points raised by the committee in its letter dated 27 March 2002.

A — New legislative measures adopted since the first report to the CTC

In order to replace the Provisional Ordinance and establish permanent legislation a bill was submitted amending a number of acts so as to establish effective legislative measures against acts of terrorism and the financing of terrorism. The parliament passed the bill on 17 June 2002 and royal assent was given on 28 June 2002. The amendments take effect immediately. An English translation of the amendments is enclosed (Annex I). Other Norwegian legislation has been reviewed to ensure that the requirements of resolution 1373 are fully met.

The new legislation makes it a serious criminal offence to commit or to directly or indirectly finance terrorist acts, and requires that the Norwegian authorities immediately freeze any assets or funds belonging to any person or entity suspected of such acts, as set out in resolution 1373. It also fulfils the relevant requirements of the 1999 Convention for the Suppression of the Financing of Terrorism. Some of these provisions are explained in further detail below.

The obligation to criminalise the financing of terrorism — sub-paragraph 1 (b)

This provision was originally implemented in sections 2 and 3 of the Provisional Ordinance, which has now been replaced by the new sections 147 a and b of the Penal Code.

Under Norwegian law a person who finances terrorist acts will in principle be considered to be an accomplice with regard to the terrorist act itself (the term "accomplice" is defined in the new section 147 a). According to the new section 147 a, such a person is liable to imprisonment for a term not exceeding 21 years. In those cases where section 147 a is not applicable, the new section 147 b overlaps and expands the criminal liability for funding terrorism.

Section 147 b, first paragraph, attaches criminal liability to those who obtain or collect funds or other financial assets in order that these financial assets should be used, in full or in part, to finance terrorist acts or any other contravention of the provisions of the new section 147 a.

* The annexes are on file with the Secretariat and are available for consultation.

The second paragraph in section 147 b attaches criminal liability to any person who makes funds or financial assets, or bank services or other financial services, available to

- a person or entity that commits or attempts to commit such criminal acts as mentioned in section 147 a,
- any entity owned by such a person as mentioned above over which he has control, or
- any person or entity that acts on behalf of or at the direction of such person or entity as mentioned above.

The penalty is imprisonment for a term not exceeding 10 years. Accomplices are liable to the same penalty.

The new sections of the Penal Code criminalizing terrorist acts and the financing of terrorism must be read in conjunction with existing provisions relating to corporate liability. When a person is liable for having committed an offence pursuant to a provision of the Penal Code, this liability may also be imposed on a legal person. The penalty is limited to fines. In cases related to the financing of terrorism in particular, corporate liability may be considered an alternative by the prosecuting authorities if an organization or financial institution is involved and it proves difficult to establish personal liability.

The obligation to freeze assets — sub-paragraph 1 (c)

This provision was originally implemented in the first paragraph of section 4 of the Provisional Ordinance, which has now been replaced by a new chapter, 15 b, of the Criminal Procedure Act. Section 202 d requires the authorities to freeze any property belonging to the suspect, any entity owned by the suspect or over which he has control, or any person or entity that acts on behalf of or at the direction of the suspect or such entity as is mentioned. Accordingly, when a person is suspected with just cause of preparing or carrying out an act of terrorism or of financing terrorism, the police authorities shall decide to freeze without undue delay any property belonging to the suspect or such persons or entities as are mentioned. Decisions to freeze property are taken by the chief or the deputy chief of the Police Security Service, or by a public prosecutor.

Freezing property means preventing anyone from having the property at their disposal, directly or indirectly, typically by blocking a bank account. The main purpose of freezing property is to prevent criminal offences. Temporarily freezing all the property of a person is a means of preventing him from using the funds to prepare or carry out terrorist acts.

If a financial institution suspects that a transaction is linked to terrorism, it shall of its own motion forward any information that may indicate such an offence to the National Authority for Investigation and Prosecution of Economic and Environmental Crime in Norway (ØKOKRIM). The financial institution is required, at the request of ØKOKRIM, to provide all necessary information concerning the possible offence. A customer or third party shall not be informed that such information as is mentioned has been forwarded.

In applying the national procedures for the freezing of assets in cases of terrorism, the need for close cooperation between experts in different fields is paramount. The specialised knowledge of lawyers, accountants, investigators and experts in communication technology working in various sectors of the civil service has been brought together to combat the financing of terrorism. To this end new patterns of police cooperation have been established between ØKOKRIM, the National Bureau of Crime Investigation (KRIPOS) and the Norwegian Police Security Service.

Obligation to prohibit the financing of terrorism — sub-paragraph 1 (d)

Sections 147 a and 147 b of the Penal Code both criminalise and prohibit the financing of terrorism. Jurisdiction over such acts extends to any persons and legal entities operating within Norwegian territory or any person or entity operating on behalf of or at the direction of such persons.

B — Information relating to the points raised by the CTC in letter dated 27 March 2002

- **Sub-paragraph 1 (a):**

Could Norway please provide the CTC with the guidelines which have been issued by the Banking, Insurance and Securities Commission to all banks and financial institutions on their duties concerning freezing of assets and reporting suspicious transactions to the National Authority for Investigation and Prosecution of Economic and Environmental Crime.

An English translation of the guidelines is enclosed (Annex II and III).

- **Sub-paragraph 1 (d):**

Please explain how the financial tracking system ensures that funds received by charitable and similar associations are not diverted from the associations' stated purposes to terrorist activities.

In the first report to the CTC the obligation of financial institutions to report transactions that are suspected of being linked to terrorist acts is outlined. This financial tracking system has now been reconfirmed in permanent legislation, and could prove effective in revealing the financing of terrorism through charitable and similar associations.

Reports have to be submitted on all funds channelled by charitable and similar organisations, stating how the funds have been used. Audited accounts must also be enclosed confirming that accounts have been kept for the funds in accordance with generally accepted accounting principles and that the funds have been used as stated in the application.

Norwegian legislation provides for certain control mechanisms to supervise charitable and similar associations. Supervision is currently exercised by county governors. In 2001 the parliament passed a bill increasing the authorities' capacity for thorough supervision. The new act established a supervisory body to monitor the associations and their use of funds.

Under the existing rules to counter money-laundering, financial institutions and non-financial institutions have a duty to inquire into and report suspicious transactions. This includes a duty to report funds received by charitable and similar associations where there is a suspicion that these funds might be forwarded for terrorist purposes. In these cases, transactions may not be carried out until the relevant police authorities (ØKOKRIM) have been informed. ØKOKRIM may order the institution not to carry out the transaction.

Financial institutions have a duty to establish adequate control routines for detecting and reporting suspicious transactions. Circulars provide information i.a. on persons and organisations on the UN sanctions committee's list. Currently there is no obligation for financial institutions to use an electronic tracking system, although several of the major financial institutions have implemented such systems. The supervisory authorities are considering this issue.

As regards Norwegian assistance to charitable organisations abroad, the most important channels for humanitarian assistance are the UN system and Norwegian NGOs. Funds are rarely transferred directly to local NGOs. Grant recipients must always comply with rigorous standards of accounting and auditing.

- **Sub-paragraph 2 (a):**

Please describe the mechanism under Norwegian law that prevents weapons from being supplied to terrorists within Norway.

In addition to the Norwegian Export Control Act, which requires a licence for all trade in weapons and military equipment, acquiring or possessing a firearm in Norway requires a permit from the police. Permits are only given when the firearm is to be used for recreational purposes and are only issued after police checks. All privately owned firearms are registered with the police. A central register of all privately owned firearms in Norway is scheduled to be established at the end of this year.

The owners of firearms are required to keep their weapons under lock and key. If a person has more than four firearms, or the firearms include revolvers, pistols or automatic weapons, all the weapons are to be kept in an approved secure gun locker.

If a weapon is lost or falls into wrong hands, this must be reported to the police. The police may also verify that weapons are being kept under secure conditions in private homes.

In addition to the registered weapons, there are also unregistered firearms in private hands, mainly left over from the Second World War. Norway intends to address this situation by declaring a national weapons amnesty, which is scheduled to take place in 2003.

Please outline the measures, both legislative and practical, preventing entities and individuals from recruiting, collecting of funds or soliciting other forms of support for terrorist activities to be carried out inside or outside Norway, including in particular;

- the carrying out, within or from Norway, of recruiting, collecting of funds and soliciting of other forms of support from other countries; and

- deceptive activities such as recruitment based on a representation to the recruit that the purpose of the recruitment is one (e.g. teaching) different from the true purpose and collecting of funds through front organisations.

Norwegian penal provisions, which attach criminal liability to acts committed to facilitate terrorist acts, indirectly prohibit recruitment to terrorist groups. Section 147 b directly targets the collecting of funds for terrorist activity. The Penal Code also contains a broad range of provisions that in other ways target participation in terrorist activity. Section 104 (a) of the Penal Code attaches criminal liability to any person who forms or takes part in a private organisation of a military character or who supports any such organisation, or who forms, takes part in or supports terrorist groups. If the organisation or group or its members control supplies of arms and explosives, the penalty is imprisonment for a term not exceeding six years. A similar but broader provision is to be found in section 330 of the Penal Code. The Penal Code also contains provisions that attach criminal liability to those who in various ways prepare a terrorist act or conspire for the purpose of committing a terrorist act, and the offenders may be punished even though the intended terrorist act has not actually taken place. Examples of such provisions are found in sections 94, 140, 159, 160, 161, 177 and 185 of the Penal Code.

Since the first report, several new steps have been taken to suppress recruitment to terrorist groups and the supply of weapons to terrorists. Section 104 (a) of the Penal Code has been expanded, and explicitly attaches criminal liability to persons who recruit members to terrorist groups. Section 161 of the Penal Code has also been expanded. It attaches criminal liability to any person who acquires, manufactures or stores firearms, explosives or special tools for manufacture or use with intent to commit a felony. The penalty is imprisonment for a term not exceeding six years.

Through its common position 931/2001/CFSP with subsequent amendments, the European Union has established a list of persons and organisations who are deemed to support acts of terrorism, as a supplement to the UN sanctions committee's list. Norway has aligned itself with this important European position and supports the measures it foresees.

- **Sub-paragraph 2 (c):**

According to the report, if a foreign national is suspected of or charged with carrying out or participating in a terrorist act, he or she may be refused entry. The report also explains that if a foreign national is rejected, expelled or refused a permit under the Immigration Act, such as a person is protected against being sent to any area where he or she may fear prosecution. Since sub-paragraph 2 (c) of the Resolution contains an obligation to deny safe haven to terrorists, please clarify how Norway complies with this sub-paragraph.

If a foreign national is rejected, expelled or refused a permit pursuant to the Immigration Act, he is protected against being sent to any area where he may fear persecution (not prosecution, as was stated by mistake in the previous report). This applies to all decisions made pursuant to the Act.

If a terrorist has applied for asylum, that person will not be given protection. It follows from the Act that protection does not apply when there are circumstances of the kind mentioned in Article 1 F of the Refugee Convention (the exclusion clauses). According to the article, the provisions of the convention shall not apply to any person with respect to whom there are serious reasons to presume that he or she has committed specified acts.

Since the Norwegian report was drawn up, the Immigration Act has been amended in several ways in order to better ensure that terrorists are denied any kind of safe haven in Norway. Sections 29, 30 and 58 have all been revised, and now explicitly say that a foreign national may be rejected or expelled if that person has contravened the provisions of section 147 a or b of the Penal Code, or has provided safe haven to any person who the foreign national knows has committed such an offence.

- **Sub-paragraph 2 (d):**

According to the report, "those who finance, plan, facilitate or commit terrorist acts from Norwegian territory may be extradited according to the Norwegian Extradition Act, provided the act in question is punishable by deprivation of liberty for a maximum period of more than one year. It may follow from international agreements that extradition may take place even if the condition has not been met." Please explain whether extradition can occur when the acts committed are punishable by deprivation of liberty for a maximum period of less than one year.

Extradition for acts punishable by deprivation of liberty for a maximum period of one year or less than one year can only occur when the request for extradition is covered by an international agreement under which Norway is obliged to extradite for such an offence. This limit is not an obstacle in cases where terrorist offences are involved, as such offences would carry higher maximum penalties.

According to a separate extradition act relating to extradition to Denmark, Iceland, Finland and Sweden, extradition may take place for offences that are punishable in the requesting state by a more severe penalty than fines.

- **Sub-paragraph 2 (e):**

According to the report, "in order to avoid the misconception that terrorist acts are mildly punished in Norway, it should be noted that Norwegian criminal law is in general characterised by moderate maximum penalties, in harmony with Nordic legal tradition. Unless otherwise expressly stated, imprisonment may be imposed for a term of from 14 days to 15 years (c.f. section 17 of the penal code). Imprisonment may never exceed 21 years, no matter how grave the felony". Is Norway considering revising its maximum penalties in view of sub-paragraph 2 (e) of the Resolution?

Pursuant to the new section 147 a of the Penal Code, which attaches criminal liability to any person who commits a terrorist act, such a person is liable to imprisonment for a term not exceeding 21 years. This is currently the maximum penalty in Norway.

Norway is, however, considering revising its maximum penalty. In a Green Paper presented by the government in June 2002, it is proposed to increase the maximum penalty from 21 years to 30 years of imprisonment. The proposal has recently been circulated for comment. It should also be noted that Norway has adopted a new form of detention as an alternative to ordinary imprisonment with effect from 1 January 2002. Such detention is not confined to a limited period of time, and may be imposed by the courts if a time-limited penalty such as regular imprisonment is not adequate in order to protect society from the perpetrator. It is a condition for imposing detention that the perpetrator has committed a serious crime, which has violated or endangered the life, health or freedom of others. In addition, the court must consider it likely that the offender would commit such a felony again if he were to be set free, or that he has previously committed or tried to commit a less serious felony and the risk of it happening again is very likely. In light of the strong intent to cause harm that characterises an act of terrorism, it is likely that Norwegian courts would exercise the power of detention in the event of criminal proceedings pursuant to section 147 a of the Penal Code.

- **Sub-paragraph 2 (g):**

Could Norway please provide the CTC with information on the mechanism for inter-agency co-operation between the authorities responsible for narcotics control, financial tracking and security with particular regard to the border controls preventing the movement of terrorists.

As a consequence of the Schengen cooperation, the management of border controls at the external borders has been strengthened and the internal border controls have been mainly abolished. Norway is responsible for managing external border controls on the Norwegian-Russian border. A number of practical measures involving the police, customs, Coast Guard and immigration authorities have been introduced to prevent transnational organised crime.

To secure the optimal use of available resources, a government coordination unit for combating organised crime was established in October 2000 comprising members from the Office of the Public Prosecutor, the National Police Directorate, ØKOKRIM, KRIPOS, the Norwegian Police Security Service, local police, the customs authorities and the immigration authorities. As a direct result of the enhanced cooperation that has been achieved, a number of grave felonies have been dealt with by the courts, organisers of criminal networks have been sentenced, considerable quantities of drugs, liquor and weapons have been seized, and large amounts of money have been frozen. In 2001 a project named "Catch" involving officers recruited from other specialised police units was organised in order to track down organisers of drug smuggling and money-laundering.

Legislative measures to suppress the financing of terrorist acts have been followed up by enhanced cooperation between various police units responsible for dealing with organised crime and intelligence analysis. Closer cooperation and regular sharing of information have proved invaluable, especially in monitoring dubious financial transactions.

- **Sub-paragraph 3 (c):**

Please provide the CTC with a list of the bilateral co-operation agreements concluded by Norway to prevent and suppress terrorist attacks and take action against perpetrators of such acts.

Based on the United Nations Security Council's call for increased international cooperation in order to combat terrorism, Norway and the Organisation of African Unity (OAU) have agreed on a cooperation programme for supporting the implementation of resolution 1373 in the OAU's member countries. Norway will make available

approximately USD 210 000 in 2002 for this project. Norway is also funding a project to support strengthened cooperation between the SADC countries on fighting terrorism.

Norway has concluded agreements with the European Union and the Nordic countries on police cooperation and mutual assistance in criminal matters. In addition, agreements on police cooperation and crime prevention have been concluded between Norway and Russia.

- **Sub-paragraph 3 (e):**

Have crimes specified in the relevant international conventions been included as extraditable offences in the bilateral treaties which Norway has concluded with other countries as provided for in a number of the relevant international conventions and protocols relating to terrorism?

According to Norwegian law, extradition may take place irrespective of the existence of a treaty. Offences that are punishable by a penalty of more than one year are extraditable. Extradition may be denied for offences of a political nature. Acts of terrorism are not, however, regarded as political offences under Norwegian law.

Norway concluded bilateral extradition treaties with the USA in 1977 and Australia in 1985. The treaty concluded with Australia does not contain a list of extraditable offences but establishes that offences that are punishable by a penalty of more than one year are extraditable.

The treaty concluded with the USA contains a list of 33 offences that are extraditable according to the treaty. Terrorist acts as such are not explicitly mentioned in the list, but it contains acts such as murder, manslaughter, malicious wounding or grievous bodily harm, kidnapping, abduction, damage to property and other acts that a terrorist attack could involve. The question of extending the list of extraditable offences in the bilateral treaty will be further evaluated.

- **Sub-paragraph 3 (g):**

Please explain whether Norway's reservation to the European Convention on the Suppression of Terrorism, done at Strasbourg on 27 January 1977, is considered to be in effect vis-à-vis the States Parties to this convention and whether it reflects Norway's practice with regard to other States.

Norway is fully committed to the work being done in the Council of Europe on preparing a programme of action against terrorism, and takes an active part in the multidisciplinary group that deals with the revision of the 1977 Convention.

Norway does not consider acts of terrorism to be political offences. The reservation to the 1977 Convention is therefore interpreted and applied by the Norwegian authorities in accordance with other international obligations not to consider acts of terrorism, as defined by international Conventions and Protocols relating to terrorism, as political offences. Norway is currently considering withdrawing the reservation.

- **Paragraph 4:**

Has Norway addressed any of the concerns expressed in paragraph 4 of the Resolution?

Norway is addressing the concerns expressed in paragraph 4 of the resolution in various international bodies that address police cooperation and crime prevention, including within the Schengen co-operation, with a view to strengthening regional cooperation against organised crime. For example, these concerns are on the agenda of the European Police Chiefs Task Force and the Baltic Sea Task Force.

Nationally, the relevant authorities and agencies have established close cooperation, and efforts have been initiated in both the public and the private sector to combat terrorist financing. Co-operation has also been established between the Norwegian Banking, Insurance and Securities Commission and diplomatic representatives in Oslo.

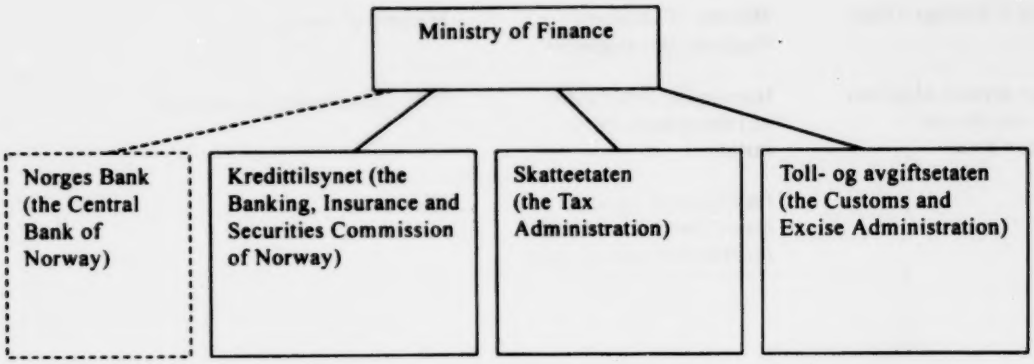
The first report to the CTC contains a reference to an ongoing criminal investigation relating to money transferred through the so-called "Hawala" system operating in Norway. In such informal systems, money can be forwarded in ways that make it difficult for the authorities to check on the final destination of the funds. In its guidelines for measures to suppress the financing of terrorism, the Financial Action Task Force (FATF) has warned that such informal systems may be used to forward money for terrorist purposes.

After eight months of investigation into the matter, several persons in Norway have been charged with money-laundering and contravention of the Financial Institutions Act and of regulations relating to book-keeping, accountancy, currency transfer and taxation.

- **Other matters:**

Could Norway please provide an organisational chart of its administrative machinery, such as police, immigration control, customs, taxation and financial supervision authorities, established to give practical effect to the laws, regulations and other documents that are seen as contributing to compliance with the Resolution.

Cf. attached charts.


Ministry of Finance
Norges Bank (the Central Bank of Norway)
Kredittilsynet (the Banking, Insurance and Securities Commission of Norway)
Skatteetaten (the Tax Administration)
Toll- og avgiftsetaten (the Customs and Excise Administration)

Responsibilities relating to counter-terrorist measures:

The Central Bank of Norway
Deals with reporting of money transfers into and out of Norway.

The Banking, Insurance and Securities Commission of Norway
Supervision of financial institutions, including compliance with the rules for preventing money-laundering and terrorist financing through the financial system.

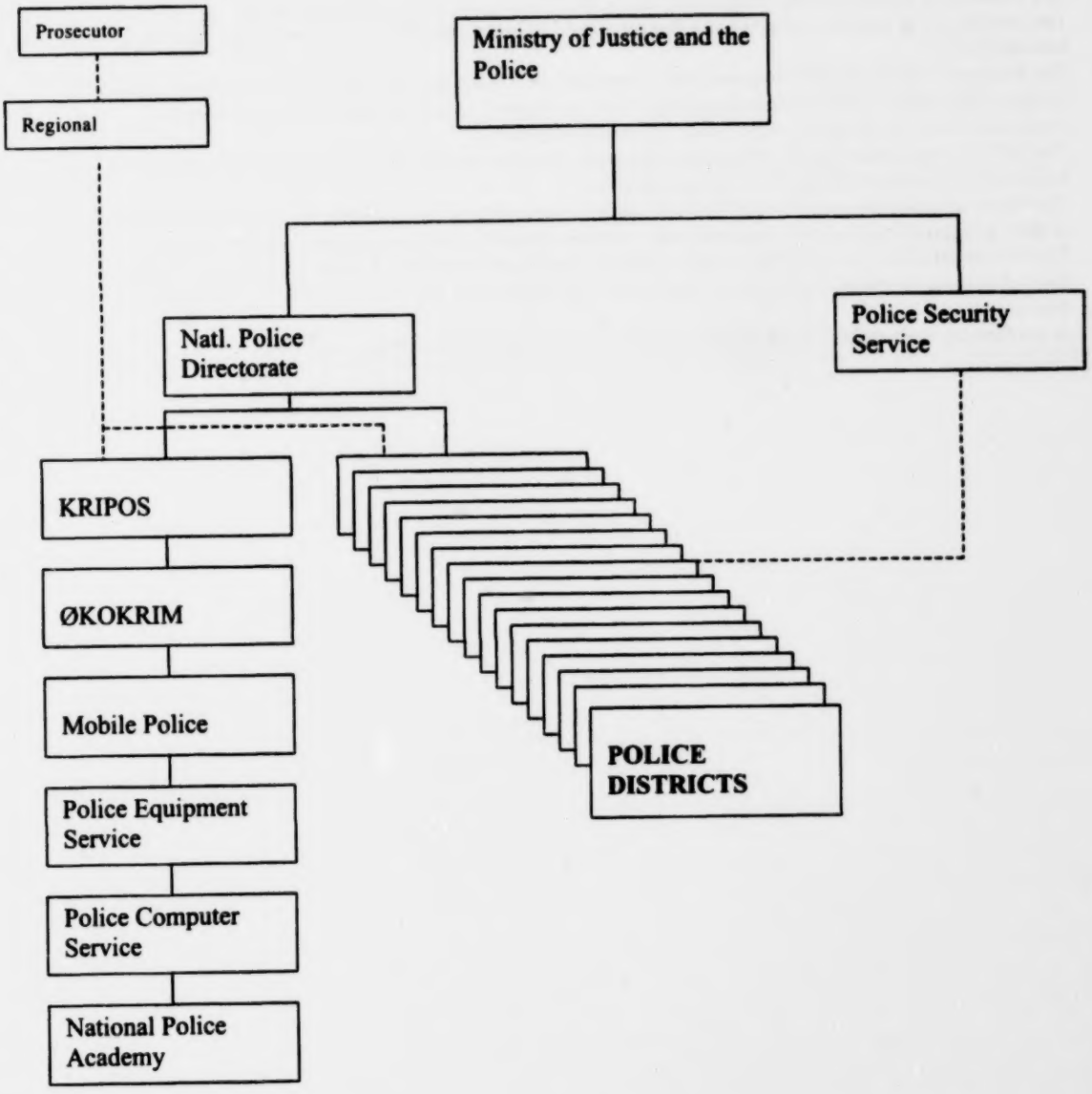
The taxation authorities
Tax control.

The Customs and Excise Administration
Border control.

The Immigration Administration

Ministry of Foreign Affairs	Ministry of Local and Regional Development	Ministry of Justice
Foreign Service Missions *Issue visas for the Schengen area*	Norwegian Directorate of Immigration (first instance)	Norwegian Police Directorate
	Immigration Appeals Board (second instance) *Independent appeals body*	The Police

The Norwegian Police Service



Explanatory notes

- The Norwegian Police Service is organized under the Ministry of Justice and the Police.
- Two police bodies reports to the MJ, the National Police Directorate (NPD) and the Police Security Service (PSS).
- The Prosecutor General (PG) is responsible for police activities related to investigation and prosecution of crime, the office of PG is a quasi judicial office, not subject to instructions from the Ministry of Justice but from the King in Council (full cabinet of ministers)
- The NPD is responsible for the general management of the police and for all activities that are not exclusively the responsibility of the PG or the PSS.
- The Police districts are geographical units of various sizes, they are responsible for all police activities in their geographical area, they may call upon various central organs in a support capacity like the KRIPOS or ØKOKRIM . The PSS is responsible for intelligence and international cooperation in the field of counter- terrorism and counter-espionage. Operational action will be handled by the police districts.
- In performing their duties the PSS will communicate directly with the police districts.